

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 5, 2004

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T.R.A. DOCKET ROOM

IN RE:

NASHVILLE GAS COMPANY, a
Division of PIEDMONT NATURAL
GAS COMPANY INCENTIVE PLAN
ACCOUNT (IPA) AUDIT

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DOCKET NO.
03-00489

STAFF REPLY TO NASHVILLE GAS COMPANY'S PROPOSALS

Staff submits the comments below in response to the letter filed in this docket by Nashville Gas Company ("the Company") on June 17, 2004. The Company filed the letter as required by the Authority's Notices of Filing issued on May 5, 2004 and May 17, 2004 directing the Company to file proposals regarding issues identified in Finding Nos. 1 and 2 in Staff's IPA audit report and in the recommendations thereto.

I. ASSET MANAGEMENT REQUEST FOR PROPOSAL (RFP) PROCESS

Nashville Gas identifies three (3) changes it will make to the RFP process going forward: (1) an archival process to maintain lists of RFP recipients for audit purposes, (2) a requirement that all bids be documented in writing, and (3) a notice of the RFP process published in a national publication. Staff agrees that these changes will improve the transparency of the RFP process.

However, Staff disagrees that oversight is inappropriate or unnecessary. The Company has repeatedly characterized Staff oversight as "supervision". In the context of an audit, there is a difference between supervision and oversight. From an audit perspective, Staff needs assurance that all bids are given equal consideration. Proper oversight should include Staff

presence when the Company opens bids. This procedure would provide verification of the “universe” of bidders that have responded in some way to the RFP. Staff does not propose to be consulted, or otherwise included in any way, in the decision-making process leading up to the Company’s selection of an asset manager from among qualified bidders.

II. RECORDS RETENTION

Nashville Gas has indicated it will comply with the NARUC document retention standards. Staff concurs with the Company’s proposal.

III. WHOLESALE PRICE INDEX RELIABILITY

Staff concurs with the Company’s comments regarding the market reporting process for wholesale price indexes. However, Staff expects the Company to continue to report its prices to Gas Daily and Inside FERC with proper documentation sufficient to allow verification by Staff during the next audit.

IV. RESERVE CAPACITY MARGIN

Nashville Gas has proposed to provide additional information regarding its calculation of gas supply and capacity needs. Staff concurs with the Company’s response.

V. INCLUSION OF ASSET MANAGEMENT FEES UNDER THE INCENTIVE PLAN

The asset management fees are not provided for in the Company’s Incentive Plan tariff. Fees paid under an asset management agreement are not provided for, or implied from, the language of the Capacity Management Incentive Mechanism as stated in the tariff. Whether asset management fees should be included in the Company’s Incentive Plan is a determination that has not been made by the Authority.

The Company refers to these payments as gas cost “savings,” that, when included in the Incentive Plan “represent substantial benefit to rate payers.”¹ Regardless of any purported benefit to ratepayers, TRA Rule 1220-4-1-.06 requires that changes to a tariff be filed with the Authority at least thirty days prior to the date the changes are to become effective. Notwithstanding the failure of any previous audit to note the Company’s noncompliance with this rule, the rule remains in place. The question of whether inclusion of these asset management payments is in the best interest of the ratepayer and should be included in the Company’s incentive plan is a determination that must be made by the Authority. Staff does not agree that simply filing clarifying language to include such payments is the appropriate remedy. Rather, to the extent that the Company wishes to modify its tariff to include asset management fees in its incentive plan, it should file the proposed changes in conformance with the requirements of TRA Rule 1220-4-1-.06.

VI. UTILIZATION OF OUTSIDE CONSULTANT

The Company maintains in its latest response that the Staff’s audit of the Incentive Plan Account should be “properly limited to the purpose of determining whether the Incentive Plan Account balance is correctly calculated” and that the “scope of those audits should be fairly narrow.”² Staff respectfully disagrees with this characterization of the audit function for incentive plan audits or any other audit performed by the Staff to the extent that it suggests that such audits should encompass only checking a company’s math. Staff should not be prohibited from investigating any aspect of a compliance issue discovered in the course of an audit.

¹ Letter from James H. Jeffries IV, Counsel for Nashville Gas Company to Deborah Taylor Tate, Chairman, Tennessee Regulatory Authority, p. 3 (June 17, 2004).

² Letter from James H. Jeffries IV, Counsel for Nashville Gas Company to Deborah Taylor Tate, Chairman, Tennessee Regulatory Authority, p. 3 (June 17, 2004).

Given current resources, an outside consultant is necessary to properly review the Company's Incentive Plan Account in a manner sufficient to meet the Authority's obligation to ensure that ratepayers are treated fairly. The benefits to Nashville's ratepayers associated with a consultant will outweigh the costs. The appropriate vehicle for the Company to recover consultant costs from ratepayers is through the Actual Cost Adjustment, since the audit process includes a review of the company's gas purchases.

VI. RECOMMENDATION

To the extent that the Company intends to include asset management fees in its Incentive Plan Account on a going-forward basis, the Company should be required to file these changes to its tariff pursuant to TRA Rule 1220-4-1-.06 in a new docket. If a new docket is opened for this purpose, the Authority should, in addition to taking up the issue of including asset management fees in the IPA, consider the proposal of providing for an outside consultant to assist Staff in auditing the IPA.

Respectfully submitted,


Pat Murphy, Senior Financial Analyst

CERTIFICATE OF SERVICE


I hereby certify that a copy of the foregoing was served as indicated on the person or persons listed below on August 5, 2004.

- ☐ Hand Delivery
- ☒ First Class Mail
- ☐ Facsimile
- ☐ E-mail

James H. Jeffries, IV, Esq.
Nelson, Mullins, Riley & Scarborough,
LLP
Counsel for Nashville Gas Company
100 North Tryon Street, 24th Floor
Charlotte, NC 28202-4000

- ☐ Hand Delivery
- ☒ First Class Mail
- ☐ Facsimile
- ☐ E-mail

R. Dale Grimes, Esq.
Bass, Berry & Sims PLC
AmSouth Center
315 Deaderick Street, Suite 2700
Nashville, TN 37238-3001



Randal L. Gilliam